



BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2018-0004]

Decision to Authorize the Importation of Fresh Jujube from China into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to authorize the importation of fresh jujube fruit from China into the continental United States. Based on the findings of the pest risk analysis, which we made available to the public to review and comment through a previous notice, we have concluded that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh jujube fruit from China.

DATES: The articles covered by this notification may be authorized for importation after [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2242.

SUPPLEMENTARY INFORMATION:

Under the regulations in “Subpart L—Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-12, referred to below as the regulations), the Animal and Plant Health Inspection Service

(APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56-4 of the regulations contains a notice-based process based on established performance standards for authorizing the importation of fruits and vegetables. The performance standards, known as designated phytosanitary measures, are listed in paragraph (b) of that section. Under the process, APHIS proposes to authorize the importation of a fruit or vegetable into the United States if, based on the findings of a pest risk analysis, we determine that the measures can mitigate the plant pest risk associated with the importation of that fruit or vegetable. APHIS then publishes a notice in the *Federal Register* announcing the availability of the pest risk analysis that evaluates the risks associated with the importation of that fruit or vegetable.

In accordance with that process, we published a notice<sup>1</sup> in the *Federal Register* on March 25, 2019 (84 FR 11046-11047, Docket No. APHIS-2018-0004), in which we announced the availability, for review and comment, of a pest risk assessment (PRA) that evaluated the risks associated with the importation into the continental United States of fresh jujube fruit from China and a risk management document (RMD) prepared to identify phytosanitary measures that could be applied to the commodity to mitigate the pest risk.

We solicited comments on the PRA and RMD for 60 days ending on May 24, 2019. We received 14 comments by that date. They were from private citizens, a State department of agriculture, domestic jujube producers, two cooperative extension services, and a public advocacy group.

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<sup>1</sup> To view the notice, PRA, RMD, supporting document, and the comments that we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0004>.

Two of the commenters expressed general support for the importation of jujube from China into the United States, while another expressed general opposition to the importation of fruits and vegetables into the United States. The other commenters provided comments regarding the notice and its supporting documentation. Below, we discuss these comments, by topic.

#### General Comments

One commenter indicated that he was conducting research on refrigeration of jujubes. The commenter did not provide any indication that this research was related to evaluation of refrigeration as a phytosanitary treatment, or whether it should be considered as an alternative to the mitigations of the RMD.

One commenter stated that authorizing the importation of jujubes from China into the continental United States could result in increased carbon emissions due to the means of transportation used to ship the jujubes to the United States.

This falls outside of APHIS' statutory authority.

One commenter stated that jujubes could have trace levels of chemicals or minerals that make them a human health risk to consume.

This is also outside the scope of APHIS' statutory authority. However, we do note that the Food and Drug Administration of the Department of Health and Human Services regulates the residues that may be present on imported fruits and vegetables intended for human consumption.

One commenter requested to participate in any site visits APHIS has planned relative to the importation of jujubes from China.

We respect the commenter's expertise in phytosanitary issues pertaining to jujube and are committed to a transparent process to evaluate the risk associated with the importation of jujubes from China. However, no such site visits are currently planned.

#### Comments Regarding the Pest Risk Assessment

The PRA that accompanied the proposed rule identified six plant pests of quarantine significance that potentially could follow the pathway on jujubes from China into the continental United States: Four fruit flies (*Bactrocera correcta*, *Bactrocera cucurbitae*, *Bactrocera dorsalis*, and *Carpomyia vesuviana*), a mealybug (*Maconellicoccus hirsutus*), and a moth (*Carposina sasakii*).

Several commenters stated that, based on the conclusions of the PRA, the plant pest risk associated with the importation of jujube from China into the continental United States was too great and APHIS should deny China's request to authorize such importation.

As indicated in the RMD that accompanied the March 25, 2019 notice, as well as in the notice itself, we have determined that measures exist that can mitigate the plant pest risk associated with the importation of jujube from China into the continental United States.

One commenter voiced a similar concern, and suggested that jujubes from China be prohibited importation into the State of Florida.

For the reasons specified in the RMD and the March 25, 2019 notice, we have determined that the mitigations of the RMD adequately address the plant pest risk associated with the importation of jujubes from China into the State of Florida. The commenter did not provide information that calls into question the adequacy of these mitigations. Therefore, we do not consider it necessary to prohibit the importation of jujubes from China into the State of Florida.

One commenter stated that jujubes are usually imported seeded, and jujube seed can harbor pathogens and viruses of quarantine significance that are harmful to U.S. dogwood. The commenter questioned why the PRA did not include any such pathogens or viroids.

During the preparation of the PRA, we found no evidence of pathogens or viroids of quarantine significance that could follow the pathway on jujubes from China imported into the continental United States.

#### Comments Regarding Risk Mitigations

One commenter stated that all propagative material used to produce jujubes intended for export to the United States should be tested for quarantine pathogens and viroids.

As noted above, we found no evidence of quarantine pathogens or viroids that could follow the pathway on jujubes from China imported into the continental United States.

One commenter stated that all production sites that produce jujubes intended for export to the continental United States should be from accredited places of production.

We agree and note that we proposed that production sites would need to be registered with the national plant protection organization (NPPO) of China.

We proposed that registered places of production would have to be north of the 33rd parallel (APHIS considers China to be free of *Bactrocera* spp. fruit fly above this parallel) or, alternatively, the jujubes would have to be treated for *Bactrocera correcta*, *B. cucurbitae*, and *B. dorsalis* in accordance with 7 CFR part 305, which contains APHIS' regulations governing phytosanitary treatments.

One commenter inquired how APHIS would prevent diversion of jujubes from southern China to northern China in order to avoid this phytosanitary treatment.

As noted above, we proposed that all production sites would have to be registered with the NPPO of China. One of the primary purposes of requiring registration of production sites is to facilitate traceback of material that is determined to be infested with plant pests to its registered place of production.

However, for this to occur, all lots of jujubes from a registered production site would have to maintain the identity of the registered production site in which the jujubes were produced from the time of harvest until arrival at the port of entry into the United States, and neither the RMD nor the March 25, 2019 notice specified that such lot identification would be required.

In this final notice, we are clarifying that such identification will be required; the specific means of identification that may be used will be specified in an operational workplan entered into by APHIS and the NPPO of China.

#### Comments on Economic Effects

As a supporting document for the March 25, 2019 notice, we prepared an economic effects assessment (EEA) of the possible economic impact associated with authorizing the importation of jujubes from China into the continental United States. In that notice, we stated that “there are no commercially operating growers of red jujube dates in the United States.”

A number of commenters, including several domestic jujube producers, indicated that this statement was in error and provided information regarding the domestic jujube industry within the United States.

We have revised the EEA in response to these comments.

Several commenters also expressed concerns about the potential effects of authorizing the importation of jujubes from China into the continental United States on domestic jujube prices.

We respond to this concern in the revised EEA.

Therefore, in accordance with § 319.56-4(c)(3)(iii), we are announcing our decision to authorize the importation of fresh jujube from China into the continental United States subject to the following phytosanitary measures:

- Importation in commercial consignments only.
- Registration of places of production and packinghouses with the NPPO of China.
- Limiting registered places of production to locations north of the 33rd parallel (APHIS considers China to be free of *Bactrocera* spp. fruit flies above this parallel), or alternatively, requiring phytosanitary treatment for *Bactrocera correcta*, *B. cucurbitae*, and *B. dorsalis* in accordance with 7 CFR part 305, which contains APHIS' phytosanitary treatment regulations.
- Maintenance of the identity of the registered production site in which the jujubes were produced on each lot of jujubes intended for export to the United States from the time of harvest of that lot until arrival of the lot at the port of entry into the United States.
- The NPPO maintaining a national fruit fly monitoring program.
- Grove sanitation and trapping for fruit flies in places of production that are located in a province in which *Carpomyia vesuviana* (Ber fruit fly) is known to be present.
- Recordkeeping of fruit fly detections in registered places of production.
- Pre-export inspection by the NPPO of China and issuance of a phytosanitary certificate.
- Port of entry inspections.
- Importation under a permit issued by APHIS

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at <https://epermits.aphis.usda.gov/manual>). In addition to these specific measures, fresh jujubes fruit from China will be subject to the general requirements listed in

§ 319.56-3 that are applicable to the importation of all fruits and vegetables.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping requirements included in this notice are covered under the Office of Management and Budget control number 0579-0049. The estimated annual burden on respondents is 1037.65 hours, which will be added to 0579-0049 in the next quarterly update.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851-2483.

#### Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by



5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR  
2.22, 2.80, and 371.3.

Done in Washington, DC, this 6th day of March 2020.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020-05015 Filed: 3/11/2020 8:45 am; Publication Date: 3/12/2020]